

IN THE SUPREME COURT OF THE STATE OF DELAWARE

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|----------------------|--------------------------------|
| ABDULLAH G. HUBBARD, | § |
| | § No. 189, 2005 |
| Defendant Below- | § |
| Appellant, | § |
| | § Court Below—Superior Court |
| v. | § of the State of Delaware |
| | § in and for New Castle County |
| STATE OF DELAWARE, | § Cr. ID No. 9905018910 |
| | § |
| Plaintiff Below- | § |
| Appellee. | § |

Submitted: November 4, 2005

Decided: January 24, 2006

Before **STEELE**, Chief Justice, **BERGER** and **JACOBS**, Justices

ORDER

This 24th day of January 2006, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, Abdullah G. Hubbard, filed an appeal from the Superior Court's March 8, 2005 order denying his motion for postconviction relief pursuant to Superior Court Criminal Rule 61 and its April 11, 2005 order denying his motion for a transcript of his guilty plea. We find no merit to the appeal. Accordingly, we AFFIRM.

(2) In December 1999, Hubbard, who was free on bail following his arrest for several bank robberies, was arrested in connection with another bank robbery. In February 2002, Hubbard pleaded guilty to Robbery in the

First Degree. He was sentenced to 10 years incarceration at Level V, to be suspended after 4 years for decreasing levels of probation. Hubbard did not file a direct appeal from his conviction and sentence.

(3) In this appeal, Hubbard claims that: a) the Superior Court lacked jurisdiction to accept his guilty plea to Robbery in the First Degree because there was insufficient evidence to support that charge; b) the Superior Court abused its discretion by denying his motion for a transcript of his guilty plea; and c) his counsel provided ineffective assistance by failing to request a suppression hearing, failing to properly investigate the case, and coercing him into entering a guilty plea.

(4) Hubbard's first claim is procedurally barred, since he did not raise it in the proceedings leading to the judgment of conviction.¹ Nor has Hubbard demonstrated any basis for excusing the procedural default.² Moreover, given that this claim was procedurally barred, there was no abuse of discretion on the part of the Superior Court in denying Hubbard's motion for a transcript of his guilty plea at public expense.

(5) In order to prevail on his claim of ineffective assistance of counsel, Hubbard must demonstrate that his counsel's representation fell below an objective standard of reasonableness and that, but for counsel's

¹ Super. Ct. Crim. R. 61(i) (3).

² Super. Ct. Crim. R. 61(i) (3) (A) and (B); Super. Ct. Crim. R. 61(i) (5).

errors, there is a reasonable probability that the outcome of the case would have been different.³ Hubbard has not succeeded in demonstrating that any alleged error by his counsel prejudiced him in any way.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice

³ *Strickland v. Washington*, 466 U.S. 668, 688, 694 (1984).